

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8165 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? -
2. To be referred to the Reporter or not? -

3. Whether Their Lordships wish to see the fair copy of the judgement? -
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? -
5. Whether it is to be circulated to the Civil Judge?

Versus

Appearance:

MR MANISH R BHATT for Petitioner
MR HM BHAGAT with MR PS PATEL, for Respondent No. 1
MR ST MEHTA, AGP for Respondent No. 2.

CORAM : MR.JUSTICE KUNDAN SINGH
Date of decision: 28/09/98

ORAL JUDGEMENT

By means of this petition, the petitioner sought for a direction for quashing and setting aside the order dated 8-11-1990 passed by the Additional Director of Geology and Mining and the order of the Collector, Banaskantha dated 18-4-1990 annexure "H" and "F" respectively.

2. The petitioner was granted lease on 7-12-1976 for a period of ten years. After 10 years for certain time the lease could not be extended as some approval was to be taken from the Central Government. Subsequently, the Central Government has renewed the lease by the order dated 16-6-1996 with retrospective effect from 10-9-95 for the period for which the petitioner was not holding valid lease. Hence, the Government proceeded to recover the market value of the material excavated by the

petitioner. Now the petitioner is ready to deposit the royalty for which the learned counsel for the other side has no objection.

3. The petitioner is accordingly permitted to deposit the royalty for the period for which he had no licence. In view of the fact that the lease has been extended for a period of 10 years from retrospective effect the impugned orders deserve to be quashed and set aside.

4. Accordingly, the petition is allowed and the impugned order dated 18-4-90 Annexure - F and order dated 8-11-1990 Annexure - H, are quashed and set aside subject to the condition that the petitioner will deposit the amount of royalty for the period for which he had no valid and legal licence. Rule is made absolute, with no order as to costs.

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